

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

NICHOLAS TIMOTHY CRNKO

1704 Oakview Drive
Roseville, CA 95661

Federal Metropolitan Detention Center
535 North Alameda Street
Los Angeles, CA 90012
Prisoner No. 45812-112

Registered Nurse License No. 390646

Respondent.

Case No. 2009-204

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 9, 2009.

IT IS SO ORDERED this December 9, 2009.



President
Board of Registered Nursing
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-204

12 **NICHOLAS TIMOTHY CRNKO**

13 1704 Oakview Drive
14 Roseville, CA 95661

15 Federal Metropolitan Detention Center
535 North Alameda Street
16 Los Angeles, CA 90012
17 Prisoner No. 45812-112

18 Registered Nurse License No. RN390646

19 Respondent.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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21 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
22 proceeding that the following matters are true:

23 **PARTIES**

24 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brought this action solely in her official
25 capacity as the Executive Officer of the Board of Registered Nursing, and is represented in this
26 matter by Edmund G. Brown Jr., Attorney General of the State of California, by David E.
27 Hausfeld, Deputy Attorney General.

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2. Nicholas Timothy Crnko (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 31, 1985, the Board of Registered Nursing issued Registered Nurse License No. RN390646 to Nicholas Timothy Crnko. The license was in full force and effect at all times relevant to the charges brought in Accusation No. 2009-204 and will expire on December 31, 2010, unless renewed.

JURISDICTION

4. Accusation No. 2009-204 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 20, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2009-204 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2009-204. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 13. The surrender of Respondent's Registered Nurse License and the acceptance of the
2 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
3 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
4 license history with the Board.

5 14. Respondent shall lose all rights and privileges as a Registered Nurse in California as
6 of the effective date of the Board's Decision and Order.

7 15. Respondent shall cause to be delivered to the Board both his pocket license and, if
8 one was issued, wall license certificate on or before the effective date of the Decision and Order.

9 16. Respondent fully understands and agrees that if he ever files an application for
10 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
11 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
12 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
13 charges and allegations contained in Accusation No. 2009-204 shall be deemed to be true, correct
14 and admitted by Respondent when the Board determines whether to grant or deny the petition.

15 17. Upon reinstatement of the license, Respondent shall pay to the Board costs associated
16 with its investigation and enforcement pursuant to Business and Professions Code section 125.3
17 in the amount of \$2,664.50. Respondent shall be permitted to pay these costs in a payment plan
18 approved by the Board.

19 18. Should Respondent ever apply or reapply for a new license or certification, or petition
20 for reinstatement of a license, by any other health care licensing agency in the State of California,
21 all of the charges and allegations contained in Accusation, No. 2009-204 shall be deemed to be
22 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
23 proceeding seeking to deny or restrict licensure.

24 19. Respondent shall not apply for licensure or petition for reinstatement for two (2)
25 years from the effective date of the Board of Registered Nursing's Decision and Order.

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DATED: August 28, 2009 Nicholas Timothy Crnko
NICHOLAS TIMOTHY CRNKO,
Respondent

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

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Exhibit A

Accusation No. 2009-204

1 EDMUND G. BROWN JR.
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Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-294

13 **NICHOLAS TIMOTHY CRNKO**
14 **1704 Oakview Drive**
Roseville, CA 95661

A C C U S A T I O N

15 **Registered Nurse License No. RN 390646**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1985, the Board of Registered Nursing issued Registered
24 Nurse Number RN 390646 to Nicholas Timothy Crnko (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

". . . .

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Section 2765 of the Code states, in pertinent part:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked . . ."

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REGULATORY PROVISIONS

8. California Code of Regulations (CCR), title 16, section 1444, states in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160;

"(b) Failure to comply with any mandatory reporting requirements;

"(c) Theft, dishonesty, fraud, or deceit;

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

9. California Code of Regulations (CCR), title 16, section 1445, states in pertinent part:

"

"(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a licence will consider the following criteria:

(1) Nature and severity of the act(s) or offence(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offence(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**
4 **(April 27, 2009 Criminal Conviction for Possession of**
5 **Child Pornography on August 28, 2008)**

6 11. Respondent is subject to disciplinary action under section 2761(f), in that Respondent
7 was convicted of a crime substantially related to the qualifications, duties and functions of a
8 registered nurse. The circumstances are as follows.

9 12. While an employee at Kaiser Permanente (Kaiser) in Riverside, California, on or
10 about August 28, 2008, Respondent knowingly possessed material which Respondent knew
11 contained visual depictions of minors engaged in sexually explicit conduct; knew that these
12 depictions showed minors engaged in sexually explicit conduct and knew that production of these
13 depictions involved the use of a minor in sexually explicit conduct.

14 13. Respondent brought these materials to his work desk at Kaiser, loaded the materials
15 into his work computer and viewed the materials during his work shift.

16 14. As a result of this incident Respondent was arrested and charged with a single
17 violation of 18 U. S. C. § 2252A (a) (5) (B). On April 27, 2009 Respondent entered a plea of
18 guilty in United States District Court, Central District of California, Eastern Division – Riverside
19 Case No. 5:08-cr-00193-VAP to a felony violation of 18 U. S. C. § 2252A (a), possession of
20 child pornography. As part of his criminal sentencing, Respondent was committed to the custody
21 of the Federal Bureau of Prisons to be imprisoned for a term of 18 months. Upon his release from
22 prison he shall be placed on supervised release for a period of ten years under various terms and
23 conditions and he will be required to register as a sex offender

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct)**

26 15. Respondent is subject to disciplinary action under section 2761(a) for unprofessional
27 conduct based upon the acts outlined in the First Cause for Discipline, and incorporated herein by
28 reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse Number RN 390646, issued to Nicholas Timothy Crnko.

2. Ordering Nicholas Timothy Crnko to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/19/09

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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